

**REMARKS**

Claims 1-20 were pending in this application.

Claims 1-4 and 11-14 have been rejected.

Claims 5-10 and 15-20 have been objected to.

No claims have been amended.

Claims 1-20 remain pending in this application.

Reconsideration and full allowance of Claims 1-20 are respectfully requested.

**I. ALLOWABLE CLAIMS**

The Applicants thank the Examiner for the indication that Claims 5-10 and 15-20 would be allowable if rewritten in independent form. Because the Applicants believe that the remaining claims in this application are patentable, the Applicants have not rewritten Claims 5-10 and 15-20 in independent form.

**II. PRIORITY CLAIM**

The Office Action notes that claims for priority must include the relationship between the current application and an application from which priority is claimed. The Office Action also notes that a claim for priority must be filed within four months of the filing date.

The Applicants respectfully note that the "Cross-Reference to Related Applications" section does not represent a priority claim. Instead, the Applicants are simply identifying other patent applications that are related to this patent application.

The Applicants also respectfully note that priority has been claimed to U.S. Provisional

Patent Application No. 60/273,579. This claim for priority was presented in the original Declaration and Power of Attorney, which was filed with the original application on April 20, 2001.

### III. OBJECTION TO DRAWINGS

The Office Action objects to the drawings because of various informalities noted in the Office Action. The Applicants have amended Figures 3 and 6-8 to correct the noted informalities. In particular, the Applicants propose to replace reference numerals 320-322 with reference numerals 321-323 in Figure 3, remove one instance of reference numeral 600 from Figure 6, and remove reference numeral 100 from Figure 7 and Figure 8. The Applicants have also amended the specification to refer to reference numeral 507.

The Office Action also objects to Figures 1 and 2, asserting that these figures should be labeled as "Prior Art" because "only that which is old is illustrated." (*Office Action, Page 3, Section 2*). The Applicants respectfully traverse this objection.

Figure 1 illustrates an RF modem shelf (element 140) and an access processor shelf (element 165) in a central office facility (element 160). Figure 2 illustrates RF modem shelves (elements 140A-140D) and central office facilities (elements 160A-160B). Figures 6-8 describe various patentable features of an RF modem shelf, an access processor shelf, and/or a central office facility. (*Application, Page 55, Line 6 – Page 62, Line 13*). Because of this, Figures 1 and 2 do not merely illustrate "that which is old." As a result, Figures 1 and 2 should not be labeled as "Prior Art."

For these reasons, the Applicants respectfully request withdrawal of the objections to the

drawings.

**IV. OBJECTION TO SPECIFICATION**

The Office Action objects to the Applicants' specification because of various informalities noted in the Office Action. The Applicants have amended the specification to correct the noted informalities. The Applicants respectfully request withdrawal of the objections to the specification.

**V. REJECTION UNDER 35 U.S.C. § 102**

The Office Action rejects Claims 1-4 and 11-14 under 35 U.S.C. § 102(b) or § 102(e) as being anticipated by U.S. Patent No. 6,016,311 to Gilbert et al. ("*Gilbert*"). This rejection is respectfully traversed.

A prior art reference anticipates the claimed invention under 35 U.S.C. § 102 only if every element of a claimed invention is identically shown in that single reference, arranged as they are in the claims. MPEP § 2131; *In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990). Anticipation is only shown where each and every limitation of the claimed invention is found in a single prior art reference. MPEP § 2131; *In re Donohue*, 766 F.2d 531, 534, 226 U.S.P.Q. 619, 621 (Fed. Cir. 1985).

*Gilbert* recites an adaptive time division duplexing (ATDD) method and apparatus for use in a communication system. (*Abstract*). The method and apparatus are capable of flexibly and dynamically allocating time slots for uplink or downlink transmissions. (*Abstract*). Also, the time slots can be allocated in either a symmetric or an asymmetric fashion. (*Abstract*). In some

embodiments, a cluster controller (element 162) coupled to multiple base stations (elements 106) controls the operation, timing, and allocation functions in the communication system. (*Col. 13, Lines 51-56*).

*Gilbert* simply recites that time slots can be allocated dynamically for uplink or downlink transmissions. However, *Gilbert* contains no mention of identifying the longest “downlink portion” of “TDD frames” used by an “RF modem.” In fact, *Gilbert* contains no mention of identifying the longest “downlink portion” of “TDD frames” used by any device in a communication system. In addition, *Gilbert* has no need to identify the longest “downlink portion” of “TDD frames.” As shown in columns 16 and 17 of *Gilbert*, the base stations and cluster controller use various equations to control their operations, and none of these equations require the longest “downlink portion” of “TDD frames.” As a result, *Gilbert* fails to anticipate a “frame allocation controller” capable of determining “a time duration of a longest downlink portion of TDD frames used by a first one of a plurality of RF modems in [an] RF modem shelf” associated with a base station as recited in Claims 1 and 11.

For these reasons, *Gilbert* fails to anticipate the Applicants’ invention as recited in Claims 1 and 11 (and their dependent claims). Accordingly, the Applicants respectfully request withdrawal of the § 102 rejection and full allowance of Claims 1-4 and 11-14.

## VI. CONCLUSION

The Applicants respectfully assert that all pending claims in this application are in condition for allowance and respectfully request an early allowance of such claims.

SUMMARY


If any outstanding issues remain, or if the Examiner has any further suggestions for expediting allowance of this application, the Applicants respectfully invite the Examiner to contact the undersigned attorney at the telephone number indicated below or at *wmunck@davismunck.com*.

The Commissioner is hereby authorized to charge any additional fees connected with this communication (including any extension of time fees) or credit any overpayment to the Davis Munck Deposit Account No. 50-0208.

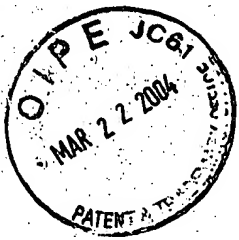
Respectfully submitted,

DAVIS MUNCK, P.C.

Date: March 17, 2004

  
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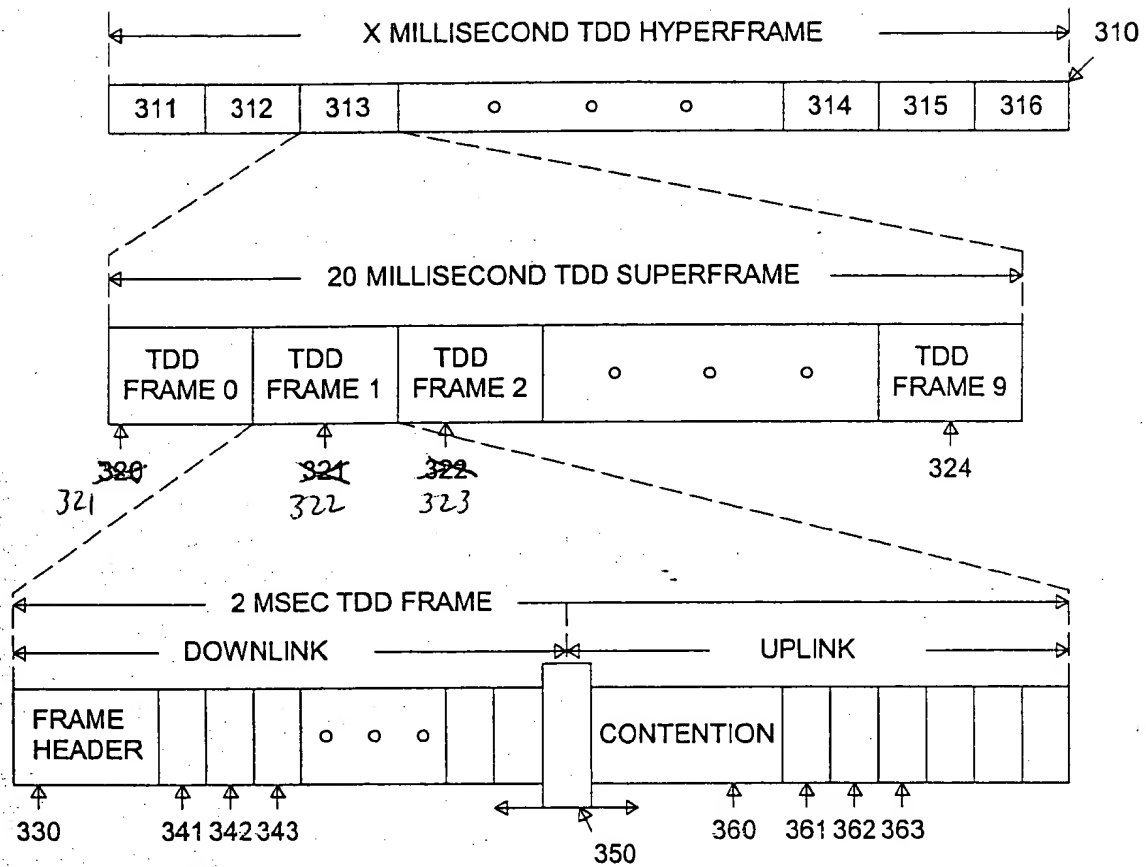
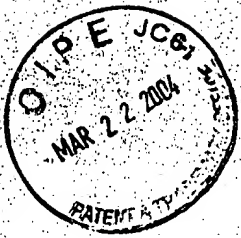


FIGURE 3



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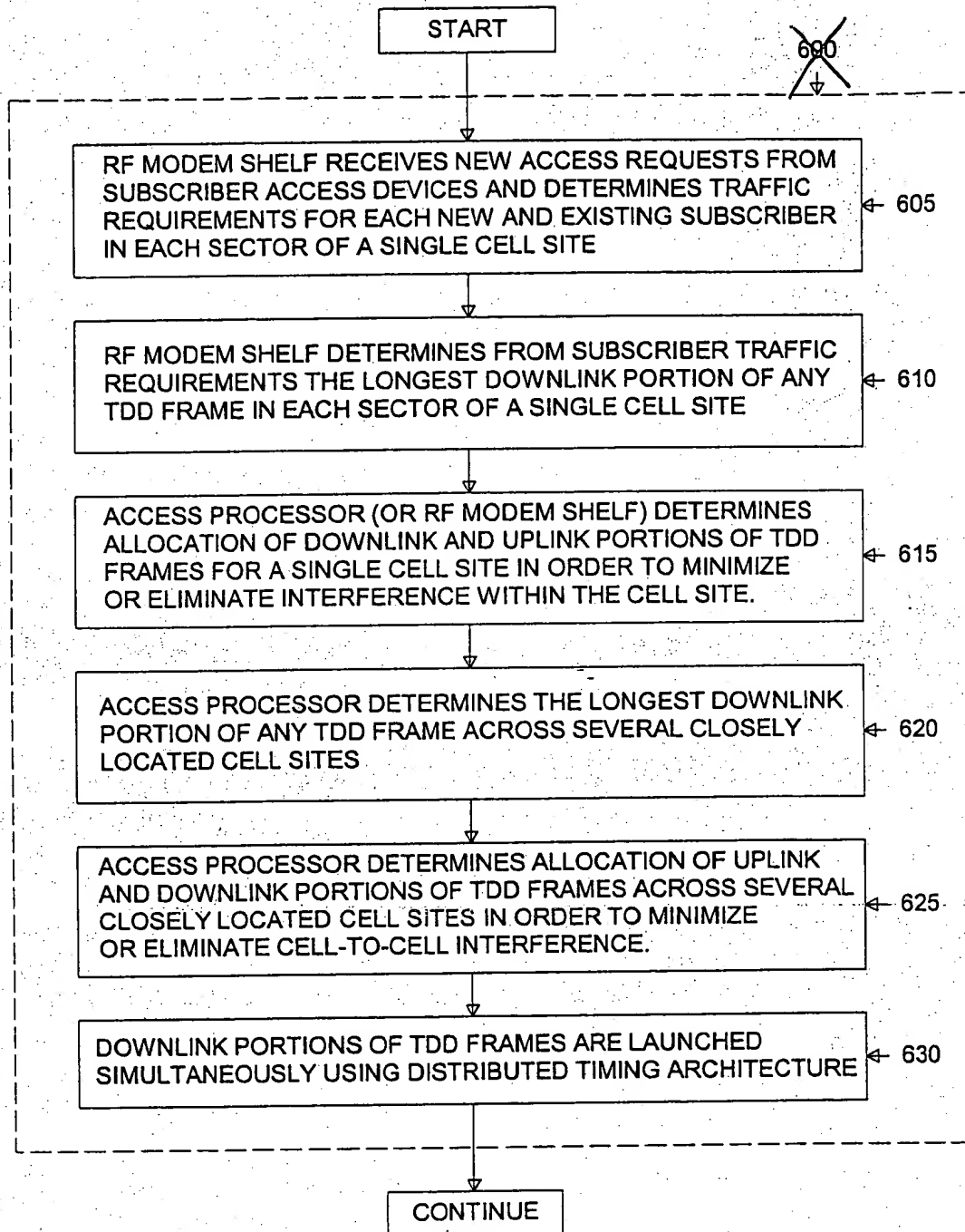
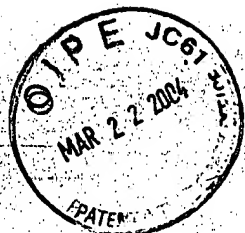
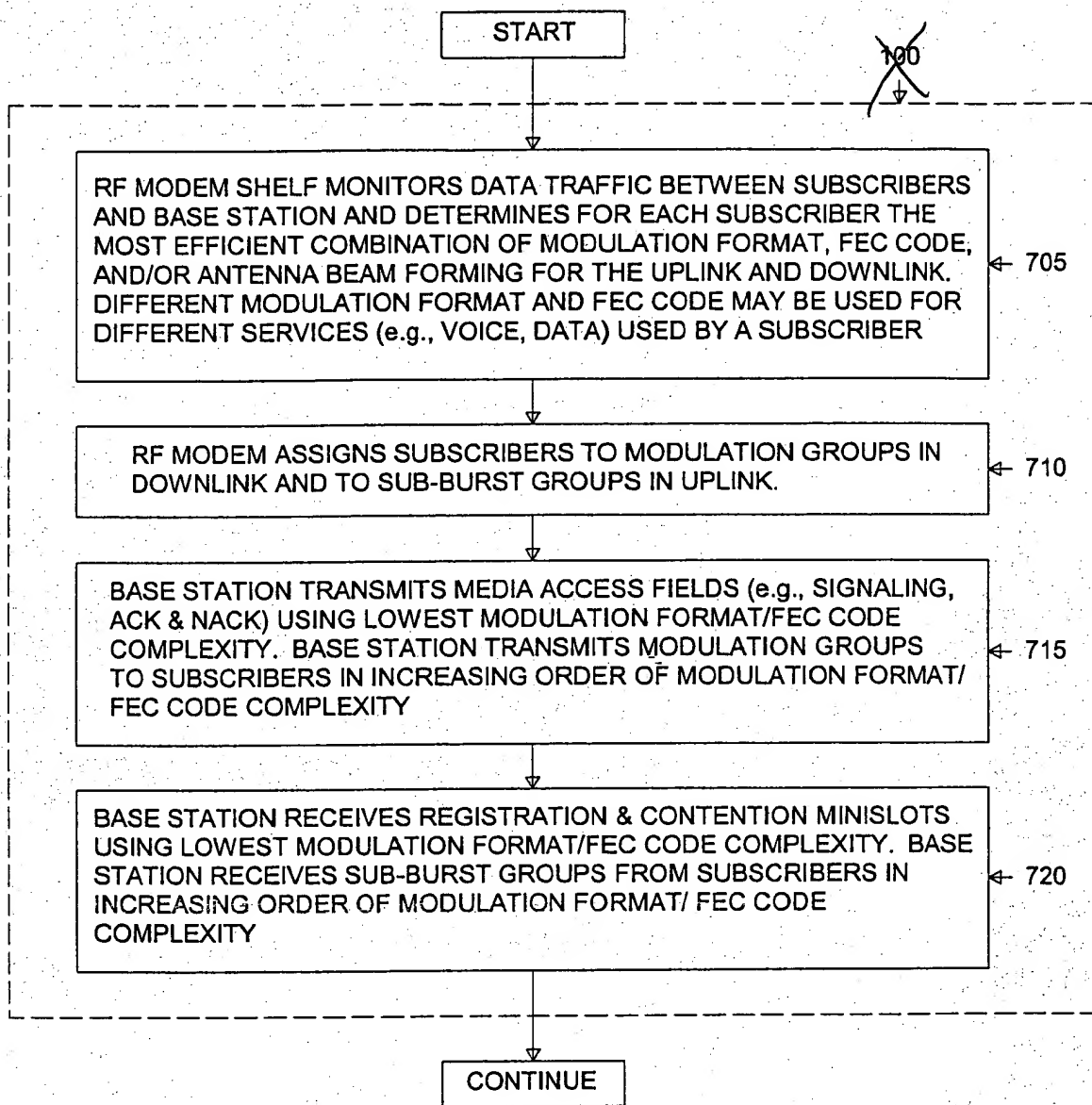


FIGURE 6



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FIGURE 7





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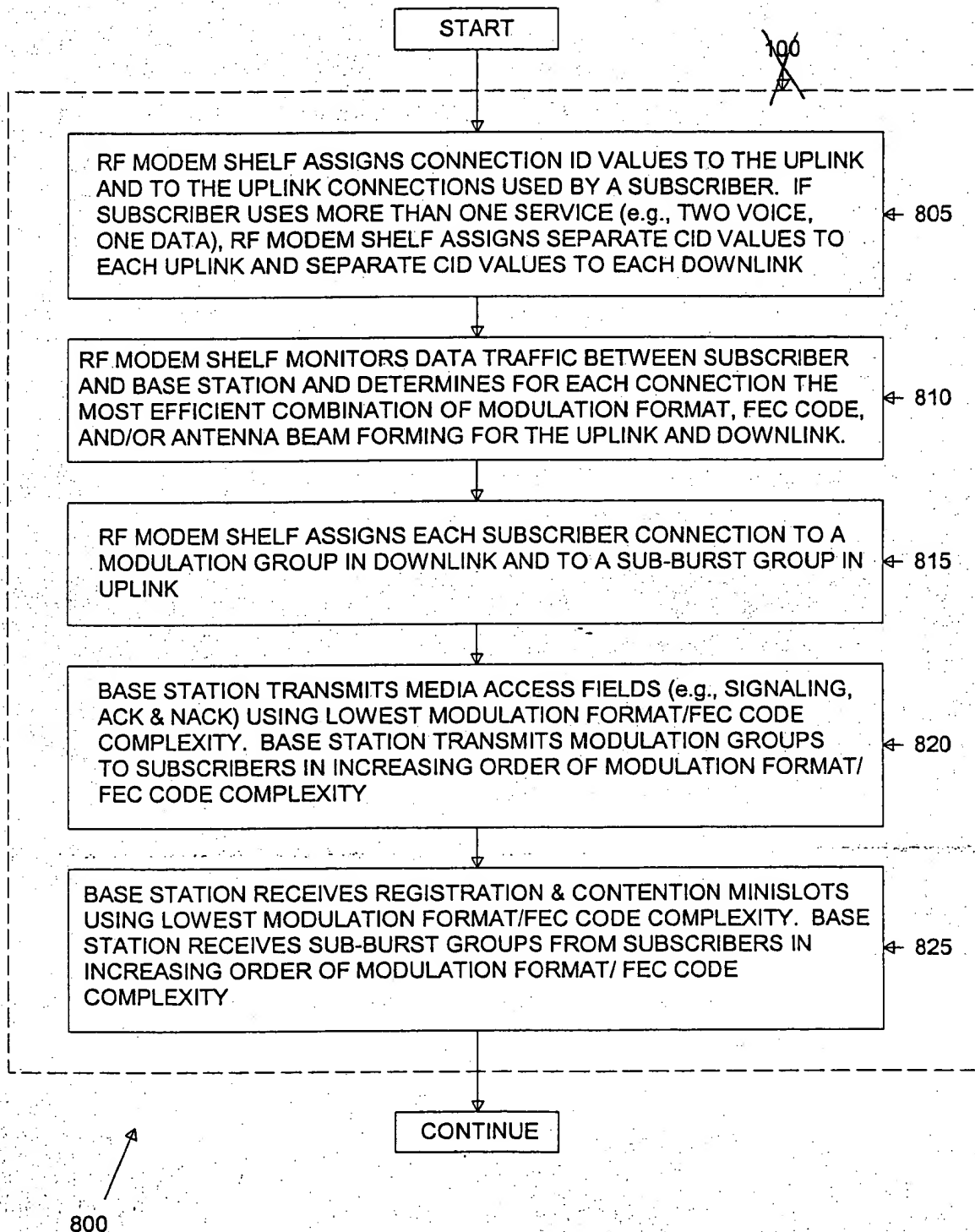


FIGURE 8